



FEDERAL ELECTION COMMISSION
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NOV -7 2018

Heath Phillips

Cincinnati, NY 13040

RE: MUR 7367

Dear Mr. Phillips:

The Federal Election Commission reviewed the allegations in your complaint received on April 17, 2018. On November 6, 2018, based upon the information provided in the complaint, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Anthony Brindisi, Brindisi for Congress and Jennifer May in her official capacity as treasurer (collectively, the "Federal Committee"), and Friends of Anthony J. Brindisi and Lorraine McGovern in her official capacity as treasurer (collectively, the "State Committee"), and close its file in this matter. Accordingly, the Commission closed its file in this matter on November 6, 2018. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Anthony J. Brindisi
Brindisi for Congress
and Jennifer May, as treasurer
Friends of Anthony J. Brindisi
and Lorraine McGovern, as treasurer

MUR 7367

I. INTRODUCTION

This matter was generated by a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Anthony J. Brindisi, Brindisi for Congress and Jennifer May, in her official capacity as treasurer (“the Federal Committee”), and Friends of Anthony J. Brindisi and Lorraine McGovern, in her official capacity as treasurer (“the State Committee”). It was scored as a low-rated matter under the Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that Brindisi made donations from his State Committee to Democratic committees, and the State Committee disclosed two \$1,000 contributions to the Federal Committee, but the Federal Committee did not report receiving them.¹ Respondents state that the Federal Committee disclosed the contributions from the State Committee in its

¹ Compl. at 1 (Apr. 17, 2018).

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1 reports filed with the Commission.² Respondents also state that these contributions were within
2 the Act's limits and contained only federally permissible funds.³

3 **B. Legal Analysis**

4 The Act and Commission regulations prohibit a federal candidate from soliciting,
5 receiving, directing, transferring or spending funds in connection with a federal campaign unless
6 the funds are in amounts and from sources permitted by the Act.⁴ Further, Commission
7 regulations prohibit the transfer of funds from a candidate's nonfederal campaign committee to
8 his or her federal committee.⁵

9 The Federal Committee's reports reveal that the State Committee made two \$1,000
10 contributions to the Federal Committee, which accepted them. As federal candidates are
11 prohibited from transferring funds from their state committees to their federal committees, the
12 State Committee should not have made the contributions, and the Federal Committee should not
13 have accepted them.

14 Since the amount at issue is *de minimis*, the Commission exercises its prosecutorial
15 discretion and dismisses the allegations as to all Respondents,⁶ and reminds the State Committee
16 and the Federal Committee of the prohibition at 11 C.F.R. § 110.3(d).

² Resp. at 1-2 (June 15, 2018). *See also* Brindisi for Congress 2017 October Quarterly at 193, available at <http://docquery.fec.gov/pdf/854/201710139075643854/201710139075643854.pdf>, and Brindisi for Congress 2018 April Quarterly at 396, available at <http://docquery.fec.gov/pdf/665/201804159108235665/201804159108235665.pdf>.

³ Resp. at 2 n.6; *see* 52 U.S.C. § 30116(a)(1)(A), 11 C.F.R. § 110.1.

⁴ 52 U.S.C. § 30125(e)(1).

⁵ 11 C.F.R. § 110.3(d).

⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). The Complaint also makes allegations that Brindisi was "using money" to attend "events" that he was attending as congressional candidate. The Commission dismisses this allegation because it is vague and unsupported. *Id.*